

## REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 7-11, 15-18, 25-45 remain pending in this application. Claim 15 has been amended. No claims have been canceled. Claims 1-6, 12-14, 19-24 have been withdrawn. Claims 28-45 have been added.

### Allowable Subject Matter in New Claims

Applicant respectfully thanks the Examiner for allowing claims 8, 16, and 26 if rewritten in independent form including all of the limitations of their base claims and any intervening claims. Applicant submits claims 8, 16, and 26 have been rewritten in independent form including all of the limitations of their base claims in new claims 28, 32, and 35 respectively. In addition, independent claim 10 has been rewritten in claim 30 to include the limitation of “wherein the number of packets are concatenated within locations in the TDM SONET signal not occupied by TDM data traffic” (Claim 30), which is the limitation in allowed in claims 8, 16, and 26. As such, Applicant respectfully requests that the Examiner allow new claims 28, 30, 32, and 35. In addition, Applicant respectfully submits that new dependent claims 29, 31, 33-34, and 36 are allowable at least for the reason that they depend on an allowable independent claim.

Similarly, Applicant respectfully submits that new claims 37-45 add no new matter and are not anticipated or obvious in view of the cited prior art. In particular, new independent claims require: 1) “packets...concatenated within locations in the TDM SONET signal not occupied by TDM data traffic” (Claim 37, 40); and 2) “placing each one of the set of packets within any time divided signal location that is not occupied by time divided data traffic, without interleaving each one of the set of packets equally across a time divided signal” (Claim 43). The Examiner has stated that the cited prior art fails to “teach/suggest packets concatenated within locations in the TDM SONET signal not occupying TDM data traffic” (See Office Action, pg. 7). As such, Applicant respectfully requests that new

independent claims 37, 40, and 43 be allowed. Applicant respectfully submits that new dependent claims 38-39, 41-42, 44-45 are allowable at least because they depend on an allowable independent claim.

#### Restriction Requirement

The Examiner has restricted the Applicant's claims into three groups. Claims 1-3 and 19-21 have been restricted into Group I. Claims 4-6, 12-14, and 22-24 have been restricted into Group II. Claims 7-9, 10-11, 15-18, and 25-27 have been restricted into Group III. Applicant respectfully affirms the provisional election of Group III made without traverse during a telephone conversation between the Examiner and Daniel M. DeVos on July 15, 2004.

#### Abstract Changes

The Examiner has reminded the applicant of the proper language and format for an abstract of the disclosure. Applicant respectfully submits that the abstract has been replaced per the Examiner's suggestions and adds no new matter.

#### Claim Rejections – 35 USC § 103

Claims 7, 9, 10-11, 15, 17, 25 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Sandstrom (US 6,697,373) in view of De Moer et. al (US 6,147,968) and Bianchini et. al. (U.S. 6,473,433 B1).

#### Claims 7, 9, 10-11, 15, 17, 25, 27

First, Applicant respectfully submits that the cited combination, either alone or in combination, does not disclose or suggest at least: 1) “wherein the concatenation can be across any locations within the TDM SONET signal” (Claim 7, 25); 2) “packet processing

circuitry...to concatenate the packets into any location with a Time Division Multiplexing (TDM) Synchronous Optical Network (SONET) signal” (Claim 10, 15). In contrast, in Sandstrom, standard and “elementary techniques” (Sandstrom, col. 5, line 50) are used to concatenate “packets received from the ingress Access Interface 36 to STS0Xc containers on a per-flow basis” (Sandstrom, col. 5, lines 57-59). As such, Sandstrom is limited to placing packets within fixed time slots within a TDM signal, and therefore does not disclose or suggest all of the limitations of the Applicant’s claims.

Similarly, the switching node of De Moer and the queue resynch system of Bianchini have nothing to do with concatenation of packets into “any location” (Claims 7, 10, 15, 25) within a TDM signal. The switching node of DeMoer merely “observes for the presence of concatenated data and, in the case where there is presence of concatenated data, routes the...block as a single unit toward the adjacent network ring” (See DeMoer Abstract). As such, the switching node of DeMoer merely switches packets if it sees the presence of fixed time slot concatenated data and has nothing to do with concatenation of packets into “any location” (Claims 7, 10, 15, 25) within a TDM SONET signal. Similarly, the queue resynch system of Bianchini merely “is related to upgrading...a distributed switching system without turning off traffic..by sending a queue resynch signal” (See Bianchini col. 1, lines 5-11) and has nothing to do with concatenation of packets in “any location” (Claims 7, 10, 15, 25). As such, the Applicant’s independent claims 7, 10, 15, and 25 are allowable at least for the reasons stated above.

Second, if this rejection is maintained, the Applicant respectfully requests that the Office Action specifically point out the limitations discussed above. The Office Action mailed August 4, 2004 does not cite any reference (See Office Action, pgs. 4-6) within the prior art that

discloses or suggests concatenation of packets into “any location” (Claims 7, 10, 15, 25) within a TDM SONET signal. Applicant respectfully submits that the cited combination must teach or suggest all claim limitations. (See MPEP 2143.03). Applicant respectfully requests that the Examiner cite a reference in support of his or her position per 37 CFR 1.104(d)(2). If the rejection is based on facts within the personal knowledge of the Examiner, the Applicant requests that the Examiner provide an affidavit stating specifically why the limitations are common knowledge in the art per 37 CFR 1.104(d)(2). Applicant respectfully submits that “under the current SONET standard, a given set of STS frames are required to be interleaved (i.e. concatenated) within a given SONET signal” (See Specification, pg. 19, lines 5-7). In contrast, “filling of holes within the SONET signal provides a more efficient use of the bandwidth of the SONET signal.” (See Specification, pg. 23, lines 13-14)

Third, Applicant respectfully submits that dependent claims 8-9, 11, 16-18, and 26-27 are allowable at least for the reason that they depend on an allowable independent claim. As such, Applicant respectfully requests that the all of the claims 7-11, 15-18, and 25-27 within Group III be allowed.

#### Notice of References Cited

Applicant respectfully requests that the Examiner provides a Notice of References cited form PTO-892 for references cited in the Office Action mailed on August 5, 2004. Applicant did not receive this form with the Office Action mailed August 5, 2004. Applicant is including these references within an IDS that will accompany this Response.

#### Conclusion

Applicant respectfully submits that the rejections have been overcome by the amendment and remarks, and that the claims are in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the claims be allowed.

Invitation for a telephone interview

The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.

Charge our Deposit Account

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: 9/24/04



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